

REMARKS

This amendment is believed to be fully responsive to the examiner's office action. The applicant thanks the examiner for the time taken to discuss the office action on February 12, 2004. It is requested that matters as to form that have not been addressed in this response be held in abeyance until allowable subject matter is indicated. Reconsideration, further examination, entry of the above amendments, and allowance is respectfully requested in view of the above amendments which address the points in the Examiner's as follows:

Response to Examiner Comments

Because the preamble is not being read by the examiner as a limitation, the applicant states for the record that the preamble is not intended to be a limitation, but provides guidance as to the claimed invention's utility.

Claim Rejections -35 U.S.C. § 102

The examiner rejected claims 1-3, 7-9 and 12-14 as being anticipated by Shine (5,577,711). Shine is a flashing removal tool. Flashing, as used in the Shine patent, is a material used in roofing to prevent water penetration through the roof and is typically used at valleys, chimneys, roof penetrations, eaves, rakes, skylights, ridges, and at roof-to-wall intersections on

the roof. Flashing and its removal has nothing to do with floor edgers or the adjustment of these devices.

The amended claims recite the wheel setting surfaces as being on each of the legs. This is clearly not shown in the Shine reference. Furthermore, independent claim 7 further recites that the wheel setting surfaces are adjustable, so that they may be selectively moved to and from the leading end of the device. This is also not shown, suggested, or enabled by Shine. See Bristol-Myers Squibb v. Ben Venue Laboratories, Inc., 246 F.3d 1368, 1374, 58 USPQ2d 1508, 1512 (Fed. Cir. 2001) ("To anticipate the reference must also enable one of skill in the art to make and use the claimed invention.")

In this case, it is clear that the roofing tool of Shine does not enable anyone, regardless of how highly skilled, to make the disclosed and claimed tool, or to carry out the process claimed here. The examiner is merely using the applicant's disclosure to find the claimed method, which is well recognized as being improper.

CONCLUSION

In view of the above, it is submitted that the applicant has placed this application in condition for allowance. Further examination, abeyance of any remaining informalities, and reconsideration and withdrawal of the rejections and objections raised in the Examiner's Office Action is requested. Moreover, it

is submitted that the claims are now in condition for allowance, and that allowance of the present application is in order and is also requested.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted this 29th day of April, 2004,



Ramon L. Pizarro, Reg. No. 37207
Attorney for Applicant
3515 South Tamarac Drive, Suite 200
Denver, Colorado 80237
Telephone: (303) 779-9551
Facsimile: (303) 685-9627

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office (Fax No. (703) 305-9835) on this 29th day of April, 2004,


Ramon L. Pizarro